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October 9, 2020

VIA ECF

The Honorable Vernon S. Broderick, U.S.D.J.
United States District Court
Thurgood Marshall United States Courthouse
40 Foley Square
New York, New York 10007

Re: *In re MTBE*, MDL 1358, Master File No. 1:00-1898 (VSB), M21-88
Commonwealth of Pennsylvania v. Exxon Mobil Co., et al., Case No.: 1:14-cv-06228

Joint Report Concerning Partial Motions for Summary Judgment

Dear Judge Broderick:

The parties have met-and-conferred about Defendants' proposed motions for partial summary judgment and, as directed by the Court in its notational order dated September 23, 2020, submit this joint letter to report on those discussions and our proposed agreement. Plaintiff's counsel has reviewed this letter and agreed that I may submit it on behalf of both sides.

Joint Report

There are four motions that defendants would like to file with the Court. Three of the motions would be filed on behalf of most or all defendants in the case ("Defendants' Motions"). The fourth motion is specific to defendant Exxon Mobil Corporation, and would be filed solely on its behalf ("ExxonMobil Motion").

The ExxonMobil Motion was addressed in a letter from ExxonMobil's counsel to Plaintiff's counsel dated September 25, 2020. Plaintiff's counsel responded in writing on September 29, and counsel for both parties conferred by telephone later that day.

On October 2, 2020, I emailed Plaintiff's Counsel to identify the ExxonMobil Motion and three Defendants' Motions for discussion in accordance with the Court's notational order. My email included a short statement of Defendants' basis for the motions, referencing (for the ExxonMobil Motion) the aforementioned correspondence and discussion between the parties. A copy of that email is attached as Exhibit A.

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On October 5, counsel for Plaintiff and Defendants conferred by telephone. The parties generally discussed the merits of all four proposed motions, with Defendants' counsel providing additional information about our basis for the motions and answering Plaintiff's questions.

Joint Proposal for Briefing Schedule

Although Plaintiff disputes the merits of each motion proposed by Defendants, they do not object to having the motions briefed for the Court. The parties also have agreed to propose a briefing schedule for the motions, but for the three Defendants' Motions the filing date is dependent on the outcome of next week's discovery conference with Magistrate Judge Freeman, which is scheduled for Tuesday afternoon. That is because while both sides agree that the three Defendants' motions should not be filed until after the close of non-site specific discovery, both sides also are seeking from Magistrate Judge Freeman extensions of that non-site discovery closure date. So, the proposed filing date and briefing schedule may change depending on the outcome of next week's conference.

For now, though, assuming the current deadline for completing non-site specific discovery (December 28, 2020), and assuming the Court agrees that the three Defendants' Motions can be filed, the parties propose the following briefing schedule for those three motions:

- Defendants' moving papers filed on January 15, 2021;
- Plaintiff's response papers filed on March 12, 2021;
- Defendants' reply papers filed on April 9, 2021

If the non-site discovery deadline is extended by Magistrate Judge Freeman next week, the parties will contact the Court to request that the above briefing schedule be modified so that Defendants' moving papers are filed two weeks after the new deadline for completing non-site specific discovery. The remaining briefing schedule would be extended commensurately.

As for the ExxonMobil Motion, Plaintiff and ExxonMobil have agreed that the filing of this motion need not be linked to the deadline for completing non-site specific discovery. However, the parties do not propose a briefing schedule at this time. If the Court agrees that this motion can be filed, Plaintiff and ExxonMobil will promptly finalize and propose a briefing schedule to the Court.

We appreciate the Court's time and consideration of this joint proposal, and are available at Your Honor's convenience to answer any questions.

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Respectfully submitted,

James Pardo

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Cc: All Counsel of Record (by LNFS)